

**ONTARIO PUBLIC SCHOOL BOARDS'
ASSOCIATION**

SUBMISSION IN RESPONSE TO

**THE REPORT OF THE FRENCH LANGUAGE
EDUCATION GOVERNANCE ADVISORY GROUP**

January, 1992



ONTARIO PUBLIC SCHOOL BOARDS' ASSOCIATION

The ONTARIO PUBLIC SCHOOL BOARDS' ASSOCIATION represents over 90 public boards of education from all regions of the province, serving over 1,700,000 students and adult learners. OPSBA speaks for public education in Ontario and represents the interest of the public school trustees to the government, the public and the media.

ACKNOWLEDGEMENTS

This submission was prepared by the OPSBA Minority Language Task Force:

Olga Cooper, Chair	London
Claude Bordeleau	Frontenac
Doreen Dewar	Sudbury
Kathy Hewitt	Nipissing
Gerald Samson	Stormont, Dundas & Glengarry
Marven Townsend	Niagara South

Staff Resource:

Marie Pierce, Director of Northern Affairs and Curriculum

OPSBA Response to the Report of the French Language Education Governance Advisory Group

Introduction

The Ontario Public School Boards' Association welcomes the opportunity to comment on the recommendations of the French language education governance advisory group.

OPSBA recognizes that the proposals do not represent government policy. However, it is the government's responsibility to assess the various proposals for governance and introduce implementation legislation. As a result, in commenting on the Report of the Advisory Group, OPSBA will concentrate on highlighting the issues/principles that the government must consider in making decisions on French language education governance. As such, these comments will also serve as the "yardstick" against which OPSBA will assess the specific advisory group recommendations.

OPSBA recognizes the right to minority language education and its management in Ontario and is supportive of a long-term strategy for minority language education which examines alternative models for governance and provides a process for their assessment and implementation. We agree that there needs to be flexibility in implementation and that "one governance model applied uniformly across the province is not the solution". We would stress however, that the cost of implementing any model should receive primary consideration in these times which call for fiscal restraint.

Provincial Responsibilities

In recognizing the rights to French language education and governance, the provincial government has the responsibility to provide legislation which:

- respects the rights of francophones;
- defines governance mechanisms which are based on certain key principles;
- details a set of criteria against which any governance model must be assessed;
- takes into account the need for fiscal restraint and the public's concern about escalating education costs.

In addition, the provincial government, in considering the various alternatives for governance, must

- respect the right of the public to respond to proposals through a consultation process which provides adequate time for a thorough study and evaluation of the recommendations and their impact.

Francophone Rights

The provincial government must deal with the issue of competing and compounding rights of individuals. The critical question that needs to be addressed concerns whether individuals have the right to have their multiple rights provided for in any combination they chose or whether there should be limits placed on the exercise of these rights.

The government needs to provide clarification as to which rights should take precedence, linguistic rights or religious rights, in situations where numbers of students and availability of resources limit the ability of boards and taxpayers to provide programs to meet all combinations of rights.

OPSBA believes that there should be a rationalisation of the multiple rights of individuals. It is unreasonable, both in terms of cost and viability of education, for individuals to exercise their compounded rights in any form they choose.

OPSBA recommends that

- [1] The government, with school boards and trustee associations, rationalize the provision of programs and governance structures to ensure that constitutional rights to education in this province are provided for in a manner that provides for high quality education cost effectively.

Key Principles

Any system of governance must embody the essential components of governance which include representation, accountability and fairness/responsibility to both the minority and the majority.

OPSBA supports the Supreme Court decision in the Mahe case in which models for minority language education governance are based on a "sliding scale".

However, we reiterate our support for the maintenance of the present governance structure with modifications that would strengthen the corporate board. We do not support the recommendation of the Advisory Group that no amendments be made to the current provisions of the *Education Act* relating to the powers of minority language sections.

The government needs to address the concerns expressed with regard to the current provisions for minority language governance in order to ensure that this remains a viable option for the provision of governance in this province. OPSBA recommends that

- [2] The Ministry of Education amend those sections of the *Education Act* and regulations dealing with minority language governance in the following areas:
 - a) Clarification of the current legislative provisions with regards to funding and budget control; representation; exclusive and common areas of jurisdiction; the role of the corporate body of the board; and, the role of the admission committees.
 - b) The establishment of a conciliation and mediation process to provide assistance to boards that are having difficulties in implementing the current legislation.

Criteria

Decisions with regard to governance must not be based on political expediency. Instead, the provincial government must establish a set of criteria against which any governance model will be assessed. At a minimum, these criteria should include the following. Does the proposed governance model:

- honour the rights of Francophones
- enhance the likelihood of cooperation
- ensure viable education
- respect the rights of others
- protect public education
- honour the need for fiscal responsibility?

Student numbers alone should not form the basis for governance structure decisions. The cost of the contemplated services, the viability of the education system, the ability of the local community to pay, and the impact on existing systems must be taken into account. The rights of the student to receive viable education must be paramount.

There must be guarantees that the establishment of additional governance structures will not be at the expense of the public school system. The public education system is the only one which is open to all. The mandate of the public education system is in danger of being further fragmented. We already have some concerns that in some communities the extension of separate secondary education has reduced the opportunities available in the regular program leading to secondary school diploma.

The consequences for education of the further fragmentation of the public school system in which children are divided on the basis of linguistic rights must be considered in light of the mandate of the public education system to foster tolerance and understanding among all individuals regardless of their ethnic, racial or linguistic diversity.

If it is the government's intent to provide for linguistic rights through the further division of the public school system, then it is time the government stated clearly what is meant by public education. OPSBA recommends that

- [3] The government, with its partners in education, define the role of public education in this province, including the rights of francophones to public education in French.

Fiscal Restraint

The government must address questions related to financial feasibility and fiscal responsibility. There is no question that additional governance structures will cost more. Competitiveness in the private sector tends to lead to cost efficiency but competitiveness in the public sector leads to duplication and multiplies the cost.

There are already scarce resources for the provision of education in this province. Reduced provincial spending on education combined with unprecedented increases in local tax rates make it imperative that further fragmentation with its resultant escalation in costs does not occur. Cooperation is a better alternative than

mandated competition for a limited number of students and a limited pot of resources. Government needs to assist in the development of strategies to enhance cooperation and reduce duplication.

There must be accountability to the public in general.

If French language governance is to be a priority with the government, then the government must be open and honest to the public about the financial implications of implementing new governance structures in terms of how much they are going to cost the local ratepayers. Trustees must not be placed in the position of defending the government's decision on French language education governance. The government should learn from the past. The anticipated cost of implementing full extension of the separate school system bore no relationship to the actual costs of extension yet no public accounting of the additional costs has been made. OPSBA recommends that

- [4] Prior to implementing any additional governance structures for the provision of minority language education, the government undertake an in-depth analysis of the actual costs of such structures, and sources of revenue to support such costs.

Any decisions with regard to governance and the funding of new structures must not occur outside the current review of education finance that is taking place in this province. OPSBA recommends that

- [5] The investigation into the establishment of additional governance structures take place within the current provincial examination of education financing.

Fiscal responsibility necessarily requires an examination of whether additional autonomous structures for the provision of minority language governance are necessary to provide for any rights to manage education. In addition to the costs associated with the establishment of regional, area and local French language school boards; the government cannot ignore the fact that the public is unwilling to finance further local education authorities.

Rather than an expansion of current governance structures; the government, and local boards, need to take a serious look at more innovative models which, while respecting minority rights in matters of exclusive jurisdiction, encourage cooperation and the sharing of resources. Governance models which enhance the likelihood of cooperation should be given priority. OPSBA recommends that

- [6] The Ministry of Education, in consultation with school boards and trustee associations, undertake an examination of the concept of confederated boards. This examination should include the possibility of pilot projects.

Public Input

The impact of the additional governance structures for French language education on existing boards and education systems will be significant both in terms of cost and programs.

There must be assurances that adequate time and opportunity will be given for interested parties to carefully consider both the recommendations of the French language education governance advisory group and the subsequent government proposals. The deadline for response to the advisory group, in the midst of municipal elections, was totally unacceptable.

Once the government has had time to consider both the advisory group recommendations and proposals from other interested parties in the education sector and puts forth its own recommendations; there is the need for public hearings on the question of minority language governance. In order to ensure that there is the opportunity for public input at the provincial level, OPSBA recommends

- [7] That the government hold provincial public hearings on its proposals for minority language governance.

On the basis of these concerns and principles, OPSBA will now make some general comments on the proposals contained in the Report of the French Language Education Governance Advisory Group. We will not be providing a detailed response to each of the 57 recommendations.

Advisory Group Report

OPSBA has fundamental concerns with the report of the advisory group and, for these reasons, cannot support a number of its recommendations. Not only does the report fail to recognize the current climate of fiscal restraint; it proposes models for governance which will result in duplication and fragmentation as opposed to cooperation and the sharing of resources.

Fiscal Accountability

The Advisory Group recognized that the major concern expressed by the English-language community was "the possibility that the exercise of the right to manage and control French language education could impose an undue burden on the local English language ratepayers". Regardless of this recognition, the Advisory Group went on to recommend the establishment of twelve regional French language school boards and the potential creation of additional local and area school boards.

OPSBA cannot support the recommendations which provide for start-up, interim and long-term funding of these new governance structures. The province is currently undertaking an extensive review of the financing of education both through the Fair Tax Commission and a Ministry of Education review. Any considerations with regard to the funding of minority language education governance structures must take place within the context of this overall review. This review must include both program and capital considerations.

We would stress we cannot support, in any form, the pooling of residential and further pooling of commercial and industrial assessment.

There must not be any new school boards established until the government makes a commitment to fund them. If the government chooses to provide for additional autonomous governance structures, then it has the responsibility to provide funds for these structures. These funds cannot, however, come out of the current provincial allocations for education. There is simply not enough money available to meet the current needs of school boards.

Governance Models

Although a primary consideration, cost is not the only criteria against which the formation of governance structures must be assessed. Consideration must be given to whether the proposed structure enhances the likelihood of cooperation, ensures viable education, respects the rights of others and protects public education.

The question of the over-governance of education must also be considered in light of the reluctance of the public to accept the establishment of more governance structures in education.

OPSBA was disappointed that the Advisory Group Report limited itself to proposing models which result in the expansion and duplication of existing governance structures. More innovative approaches to governance which would foster cooperation, the sharing of resources and coordination of services were not considered. Confederated school boards should be given serious consideration.

No rationale is provided for the establishment of twelve regional French language school boards based on the existing Ministry of Education regional divisions. Other than geography, what other criteria should be used in determining that twelve boards should be established?

By recommending that the government not amend existing legislative provisions for minority language governance, we would argue that the Advisory Group is predetermining the governance option to be chosen by French language community. By not recognizing and addressing identified concerns with the current legislation, the Advisory Group is favouring the regional, area or local school board governance options.

There are no mechanisms for change built into the decision-making process with regard to governance. There are no mechanisms established for assessing and evaluating implementation. What happens if, once the autonomous school board is established, the number of students fall below the number required for the provision of viable education in a fiscally responsible manner?

Implementation

OPSBA has concerns that the proposals for the implementation of the new governance structures which include the establishment of a provincial implementation commission as well as local implementation and impact committees will be very costly and cumbersome.

Although supportive of the need for some external agency which will carefully assess the various proposals for new governance structures; it must be clarified that this agency has the obligation to consider the impact on existing structures in its

deliberations. Evaluation of the proposals must not be restricted to only consideration of the submission from the local planning and implementation committee.

Impact will be very difficult to assess but will, at a minimum, require an assessment of the effect on the students, program, existing board structures and the local taxpayer.

Before the government proceeds with implementation, public hearings on the proposals are required to ensure that the public has an opportunity to participate in the decision-making process.

Conclusions

In reviewing the proposals contained in the Report of the French Language Education Governance Advisory Group, OPSBA has highlighted the responsibilities of the provincial government in the decision making process and specified a set of criteria against which any governance proposals must be assessed.

We have argued that it is the responsibility of the provincial government to provide legislation which clearly accommodates the rights of Francophones; defines governance mechanisms which are respectful of key principles; and details a set of criteria against which any governance models must be assessed. Most significantly, any legislation providing for additional governance structures must recognize and take into account the current climate of fiscal restraint.

Any proposals for governance must be assessed on the basis of whether they, at a minimum, honour the rights of Francophones, enhance the likelihood of cooperation, ensure viable education, respect the rights of others, protect public education, and acknowledge the need for fiscal responsibility. Innovative approaches to governance, such as confederated school boards, which recognize the rights of minorities while at the same time encouraging cooperation must be given serious consideration.

Recommendations

- [1] The government, with school boards and trustee associations, rationalize the provision of programs and governance structures to ensure that constitutional rights to education in this province are provided for in a manner that provides for high quality education cost effectively.

- [2] The Ministry of Education amend those sections of the *Education Act* and regulations dealing with minority language governance in the following areas:
 - a) Clarification of the current legislative provisions with regards to funding and budget control; representation; exclusive and common areas of jurisdiction; the role of the corporate body of the board; and, the role of the admission committees.
 - b) The establishment of a conciliation and mediation process to provide assistance to boards that are having difficulties in implementing the current legislation.
- [3] The government, with its partners in education, define the role of public education in this province, including the rights of francophones to public education in French.
- [4] Prior to implementing any additional governance structures for the provision of minority language education, the government undertake an in-depth analysis of the actual costs of such structures and sources of revenue to support such costs.
- [5] The investigation into the establishment of additional governance structures take place within the current provincial examination of education financing.
- [6] The Ministry of Education, in consultation with school boards and trustee associations, undertake an examination of the concept of confederated boards. This examination should include the possibility of pilot projects.
- [7] That the government hold provincial public hearings on its proposals for minority language governance.